

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

## OPINION AND ORDER

This cause is before the court on defendant Cedrick Smith's unopposed oral motion to continue, made on the record on March 30 2018. For the reasons set forth below, the court finds that jury selection and trial, now set for May 21, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an

offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant . . . reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Smith in a speedy trial. As stated in support of the oral motion, there is a

significant amount of discovery in this case, and counsel for Smith intends to conduct an extensive investigation potentially including several witness interviews. Accordingly, a continuance is warranted to allow Smith's counsel the opportunity to prepare fully and effectively for trial. The government does not object to a continuance.

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Accordingly, it is ORDERED as follows:

(1) The oral motion for continuance of defendant Cedrick Smith, made on the record on March 30, 2018 (doc. no.30), is granted.

(2) The jury selection and trial, now set for May 21, 2018, are reset for September 4, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 5th day of April, 2018.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE